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मध्यप्रदेश राजपत्र

(असाधारण)
प्राधिकार से प्रकाशित

क्रमांक 108]

भोपाल, शुक्रवार, दिनांक 26 फरवरी 2021—फाल्गुन 7, शक 1942

विधि और विधायी कार्य विभाग

भोपाल, दिनांक 26 फरवरी 2021

क्र. 3078-106-इक्कीस-अ(प्रा.).—भारत के संविधान के अनुच्छेद 348 के खण्ड (3) के अनुसरण में सिविल प्रक्रिया संहिता (मध्यप्रदेश संशोधन) विधेयक, 2020 (क्रमांक 10 सन् 2020) का अंग्रेजी अनुवाद राज्यपाल के प्राधिकार से एतद्वारा प्रकाशित किया जाता है.

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,
आर. पी. गुप्ता, अवर सचिव.

MADHYA PRADESH BILL
NO. 10 OF 2020

THE CODE OF CIVIL PROCEDURE (MADHYA PRADESH AMENDMENT) BILL, 2020

A Bill further to amend the Code of Civil Procedure, 1908 in its application to the State of Madhya Pradesh.

Be it enacted by the Madhya Pradesh Legislature in the seventy-second year of the Republic of India as follows :—

Short title.

1. This Act may be called the Code of Civil Procedure (Madhya Pradesh Amendment) Act, 2020.

Amendment of Central Act V of 1908 in its application to the State of Madhya Pradesh.

2. The Code of Civil Procedure, 1908 (V of 1908) (hereinafter referred to as the principal Act) in its application to the State of Madhya Pradesh be amended in the manner hereinafter provided.

Amendment of First Schedule.

3. In the First Schedule to the principal Act,—

(1) in order XVIII,—

(i) in rule 4,

(a) for the existing marginal heading, the following marginal heading shall be substituted, namely:—

“Recording of evidence in Commercial Court”;

(b) in sub-rule (1), for the words “In every case”, the words, brackets and figures “In any suit in respect of a commercial dispute of a specified value triable in the Commercial Courts constituted under sub-section (1) of Section 3 of the Commercial Courts Act, 2015 (No. 4 of 2016)” shall be substituted;

(ii) after rule 4, the following rule shall be inserted, namely:—

Witnesses to be examined in open Court.

“4-A. Except as provided in rule 4, the evidence of the witnesses in attendance shall be taken orally in open Court in the presence and under the personal direction and superintendence of the Judge.”.

Insertion of Order XX-B.

(2) After Order XX-A, the following order shall be inserted, namely:—

“ORDER XX-B

RECOGNITION OF ELECTRONICALLY SIGNED ORDERS, JUDGMENTS AND DECREES

Recognition of Electronically Signed Orders, Judgments and Decrees.

1. Any order passed, judgment pronounced or decree prepared which is required to be signed by a Judge shall be deemed to have been signed by the Judge, if such order, judgment or decree has been authenticated by means of electronic signature affixed by the Judge in such manner as may be prescribed by the High Court.”.

STATEMENT OF OBJECTS AND REASONS

In the year 2002, the Central Government amended rule 4 of Order XVIII of the Code of Civil Procedure, 1908 (No. V of 1908) with intent to avoid delay in trial and to save time of the Court, but it is being experienced that the affidavit filed by the party as a witness or of a witness contains irrelevant matters, which also contains the matter not in personal knowledge of the witness, rather the whole pleadings are reproduced, therefore, it becomes necessary for the opposite party to cross examine the witness on each and every point, which is wastage of precious judicial time.

2. At the time of cross examination of a witness, it is being experienced that the witness has no knowledge of the facts mentioned in examination-in-chief given on affidavit and the Court also fails to record the demeanor of the witness as the cross examination is recorded before commissioner. As per procedure, even if examination-in-chief is filed on affidavit, further examination-in-chief is recorded before the court to decide admissibility of the documents.

3. The digitization of the Court records is the need of the hour. The e-Courts project was conceptualized on the basis of the National Policy and Action Plan for Implementation of Information and Communication Technology (ICT) in the Indian Judiciary-2005 submitted by e-committee (Supreme Court of India), with a vision to transform the Indian Judiciary by ICT enablement of Courts. The e-Courts Integrated Mission Mode Project is one of the national e-Governance projects being implemented in High Courts and District/ Subordinate Courts of the Country. The objective of the e-Courts project is to provide designated services to litigants, lawyers and the judiciary by universal computerization of District and Subordinate Courts in the country and enhancement of ICT enablement of the justice system.

4. Under the e-Courts Integrated Mission Mode Project in the District Courts of Madhya Pradesh, the digitization process is going on and in future there is Scheme to make paperless Court. As the judgments and orders passed by the Courts are required to be signed by the Judge manually as per rule 3 of Order XX of the Code of Civil Procedure, 1908, and at present there is no such provision of authentication/signature on the judgment by digital signature, unless it is authenticated by law, shall have no value.

5. In view of the above and with intent to avoid delay in trial and to save time of the Court, it has been felt necessary to amend rule 4 and insert rule 4-A in Order XVIII and to avoid further complication related to authentication/signature on the judgment by digital signature, insert a new order as XX-B in the Code of Civil Procedure, 1908, in its application to the State of Madhya Pradesh.

7. Hence this Bill.

BHOPAL:

Dated the 14th September, 2020

DR. NAROTTAM MISHRA
Member-in-charge.